

**LOCAL COURT RULES
FOR
WHITLEY CIRCUIT COURT
AND
WHITLEY SUPERIOR COURT
OF THE 92ND JUDICIAL CIRCUIT
OF WHITLEY COUNTY, INDIANA**
[As amended and effective on July 1, 2014]

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**LR92-TR5-1 FILING OF DOCUMENTS IN THE WHITLEY CIRCUIT AND
SUPERIOR COURTS BY FACSIMILE TRANSMISSION**

A. DEFINITIONS:

For the purpose of this rule, the definitions set forth in this paragraph shall apply:

1. Cover Sheet means a descriptive initial page that accompanies an electronic transmission;
2. Electronic Facsimile Transmission, commonly referred to as “FAX,” means a method of transmitting and receiving information in paper medium over telephone lines or other forms of electronic transmissions;
3. Original Document means the initially prepared written document of any counterpart intended to have the same effect by the creator; and
4. Duplicate Document means a written counterpart of the original produced by the same impression as the original of from the same matrix or by digitized electronic transmission, readable by sight, which accurately reproduces the original.

B. The Whitley Circuit and Superior Courts hereby authorize the filing of pleadings, motions, and other documents via electronic facsimile at facsimile machine telephone number (260) 248-3137 provided:

1. Such matter does not exceed ten (10) pages, including the cover sheet;
2. Such matter does not require the payment of fees by the Court;
3. The sending party creates, at the time of transmission, a machine generated log for such transmission; and
4. The original document and the transmission log are maintained by the sending party for the duration of the litigation.

C. Time of Filing. During normal, posted business hours, the time of filing shall be the time the duplicate document is produced in the Office of the Clerk of the Whitley County Courts. Duplicate documents received at all other times shall be filed as of the next normal business day.

- D. Cover Sheet. Any document sent to the Clerk of the Whitley County Courts by electronic facsimile transmission shall be accompanied by a cover sheet which states the title of the document, case number, number or pages, identity and voice telephone number of the sending party and instructions for filing. The cover sheet shall contain the signature of the attorney or party, pro se, authorizing the filing.

LR92-TR79-1 SPECIAL JUDGE ASSIGNMENT IN CIVIL CASES

(A) Cases involving a change of judge

In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the regular sitting judge shall name a panel pursuant to TR 79(F) consisting, whenever possible, of other judges, senior judges or magistrates from Whitley County. If a sufficient number of Whitley County judges, senior judges or magistrates does not exist, then a panel shall be named including the available Whitley County judges, senior judges or magistrates and judges, senior judges or magistrates from counties selected within the Judicial Administrative District of which Whitley County is a member.

If none of the above methods produce a special judge, the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from counties selected within the Judicial Administrative District of which Whitley County is a member.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

(B) Cases involving recusal or disqualification of a judge

In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from counties selected within the Judicial Administrative District of which Whitley County is a member.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

LR92-FL00-1**CHILD SUPPORT PARENT INFORMATION WORKSHEET**

In all cases wherein the courts of Whitley County are issuing an order for child support, each parent shall be required to submit to the Clerk of Whitley County a completed PARENT INFORMATION WORKSHEET (copy attached hereto) prior to or in conjunction with the issuance of a child support order.

The Rule shall become effective as to all cases filed after August 1, 1998, and in all cases where an existing order of support is modified after August 1, 1998.

No order of support shall issue until there is compliance with this Rule unless the requirement is specifically waived by the Court issuing the order.

The Clerk of Whitley County is directed to provide to counsel of record or to pro se litigants copies of the Worksheet upon the filing of an action wherein an order of support is requested or upon the filing of a petition seeking to modify an existing order of support.

NON-CUSTODIAL PARENT INFORMATION

1. CAUSE # _____ (PLEASE TYPE
OR PRINT)

NAME _____ DOB _____

ADDRESS _____ SSN _____

_____ SEX M / F RACE _____

CITY _____ STATE _____ ZIP _____

EMPLOYED AT _____

PHONE _____

EMPLOYER OR SUPERVISOR NAME _____

EMPLOYMENT ADDRESS _____

CITY _____ STATE _____ ZIP _____

CUSTODIAL PARENT INFORMATION

NAME _____

DOB _____

ADDRESS _____ SSN _____

_____ SEX M / F RACE _____

CITY _____ STATE _____ ZIP _____

CHILD NAME _____ SEX M / F

DOB _____ RACE _____ SSN _____

CHILD NAME _____ SEX M / F

DOB _____ RACE _____ SSN _____

CHILD NAME _____ SEX M / F

DOB _____ RACE _____ SSN _____

CHILD NAME _____ SEX M / F

DOB _____ RACE _____ SSN _____

CHILD NAME _____ SEX M / F

DOB _____ RACE _____ SSN _____

CHILD NAME _____ SEX M / F

DOB _____ RACE _____ SSN _____

LR92-02-FL-2**CHILDREN FIRST PROGRAM**

- I. Prior to the courts granting a Petition for Dissolution of Marriage or Petition for Legal Separation in cases where the parties have minor children, each party must complete the Children First program offered by the courts and county school systems to learn about and discuss the effect that divorce and the changing family situation has on children.
- II. The Children First program consists of two hours of discussion which may be accomplished in one two-hour session or two one-hour sessions. Classes will begin February 1, 1993. The schedule for Children First classes is as follows:

| DAY | TIME | PLACE |
|--|--------------------|---|
| 1 st & 2 nd Monday of each month | 6:30 - 7:30 P.M. | Whitko Middle School At Larwill - Room 618 |
| 1 st Monday of each month | 4:00 - 6:00 P.M. | Columbia City High School - Room 121 |
| 2 nd & 3 rd Tuesday of each month | 10:00 - 11:00 A.M. | Churubusco Elementary Conference Room |
| 3 rd Tuesday of each month | 4:00 - 6:00 P.M. | Columbia City High School - Room 121 |
| 1 st & 2 nd Tuesday of each month | 4:00 - 5:00 P.M. | Whitko Middle School At Larwill - Room 618 |
| 1 st & 2 nd Wednesday of each month | 4:00 - 5:00 P.M. | Columbia City High School - Room 121 |
| 2 nd Wednesday of each month | 4:00 - 6:00 P.M. | Churubusco High School Library |

- III. The moderators of each session will provide each attendee with a certificate of completion which must be filed with the Whitley County Clerk prior to the Court granting the Petition for Dissolution of Marriage or Petition for Legal Separation.
- IV. There will be no fee or charge made for attendance at these sessions.
- V. Participants may not bring children to these sessions. Smoking will not be permitted. Participants will not be permitted to attend class sessions if they are, or appear to be, under the influence of drugs or alcohol.

- VI. Participants must present picture identification at class sessions and remain for the entire class in order to receive attendance credit.
- VII. Class sessions will be cancelled for the day if school has been cancelled or closed for the day.
- VIII. Participants shall register to attend Children First sessions by calling the Whitley County Probation Office at 248-3117. Persons not mandated to attend Children First but who wish to voluntarily attend may do so on a space available basis but will receive no attendance credit.
- IX. Enforcement of this Rule shall be by civil contempt of court proceedings. Either court may waive the requirements herein for good cause shown upon the filing of a verified petition requesting waiver. Such petitioning party must clearly demonstrate impossibility or impracticability or performance of the requirements of this Local Rule.
- X. This rule becomes effective as to all petitions for dissolution of marriage or for legal separation filed after January 2, 1993.

The Clerk of the Whitley County Circuit and Superior Courts is ordered to spread this Local Rule of record in the Record of Judgments and Orders book of each of these Courts.

LR92-CR-2.2-1 CRIMINAL CASE ASSIGNMENT

SUPERIOR COURT:

The following cases will be filed and assigned to Superior Court:

1. All infractions, traffic infractions and Title 9 traffic offenses, excluding O.W.I. Causing Death.
2. All misdemeanors, with the exception of Check Deception misdemeanors.
3. All Class D felonies, with the exception of Check Fraud, Class D felonies, felony Non-Support Child Support Cases.

CIRCUIT COURT:

The following cases will be filed and assigned to Circuit Court:

1. All class A, B and C felonies, with the exception of class C felony of operating while a habitual traffic violator.
2. All misdemeanor and class D felony cases except for Superior Court filings as listed above.
3. All juvenile cases.

LR92-CR-2.2-1(a)

CRIMINAL CASE ASSIGNMENT (for crimes committed after June 30, 2014)

SUPERIOR COURT:

The following cases will be filed and assigned to Superior Court:

1. All infractions, traffic infractions and Title 9 traffic offenses, excluding O.W.I. Causing Death.
2. All misdemeanors, with the exception of Check Deception and Theft (by issuance of a check).
3. All Level 6 felonies, with the exception of Check Fraud, Theft (by issuance of a check), and Non-Support of a Dependent Child.

CIRCUIT COURT:

The following cases will be filed and assigned to Circuit Court:

1. Murder and all Level 1, Level 2, Level 3, and Level 4 felonies.
2. All Level 5 felonies with the exception of I.C. 9-30-17 (Operating after Lifetime Suspension).
3. All misdemeanor and Level 6 felonies not assigned to Superior Court as noted above.
4. All juvenile cases.

LR-92-CR2.2-2 TRANSFER

A Judge of Whitley Circuit or Superior Court, by appropriate order entered in the Record of Judgments and Orders, may transfer and reassign to the other court of record in the county with jurisdiction to hear the charged offense in any pending case, subject to acceptance by the receiving court.

LR92-CR2.2-3 REFILING AND SUBSEQUENT FILINGS

When the State of Indiana dismisses a case and chooses to refile that case, the case shall be assigned to the court from which the dismissal was taken.

LR92-CR2.2-4 REASSIGNMENT

In the event a change of judge is granted or it becomes necessary to assign another judge in any felony or misdemeanor proceeding, then that judge shall reassign the case to the other sitting judge in the county. If the other sitting judge in the county is disqualified or ineligible to serve, then a special judge shall be sequentially selected from an alphabetized alternative assignment list composed of judges from contiguous counties and senior judges assigned to that court.

LR92-CR2.2-5 APPOINTMENT OF SPECIAL JUDGE

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, this presiding judge may request the Indiana Supreme Court for such appointment.

LR92-AR1-1 LOCAL CASELOAD PLAN

1. The Judge of the Whitley County Circuit Court may, with the consent of the Judge of the Whitley Superior Court, transfer any action or proceeding from the Circuit Court to the Superior Court. The Judge of the Whitley Superior Court may, with the consent of the Judge of the Whitley Circuit Court, transfer any action or proceeding from the Whitley Superior Court to the Whitley Circuit Court. Other Local Rules previously filed with the Clerk of the Indiana Supreme Court establish rules for the filing of criminal cases in the courts of Whitley County. Pursuant to I.C. 33-33-92-5, the Whitley Superior Court has the same jurisdiction as the Whitley Circuit Court, except only the Whitley Circuit Court has juvenile jurisdiction.

2. Although no disparity in caseloads between the courts or judges of Whitley County, Indiana presently exists sufficient to require the transfer of cases or judges between the courts of Whitley County, the judges of Whitley County shall meet at least as often as annually to review the workload and caseload of each judge and court and then transfer, if necessary, such cases or judges between the courts as shall substantially equalize the workload of each of the judges of Whitley County.

LR92-AR15-1 COURT REPORTER SERVICES

Section One. Definitions. The following definitions shall apply under this local rule:

1. A **“Court Reporter”** is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
2. **“Equipment”** means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes and any other device used for recording and storing transcribing electronic data.
3. **“Work space”** means that portion of the court’s facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
4. **“Page”** means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rules of Appellate Procedure 7.2.
5. **“Recording”** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rules of Trial Procedure 74.

6. **“Regular hours”** worked means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
7. **“Gap hours”** worked means those hours worked that are in excess of the regular hours worked but hours are not in excess of forty (40) hours per work week.
8. **“Overtime hours”** worked means those hours worked in excess of forty (40) hours per work week.
9. **“Work week”** means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
10. **“Court”** means the particular court for which the court reporter performs services. Court may also mean all of the courts in WHITLEY County.
11. **“County indigent transcript”** means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
12. **“State indigent transcript”** means a transcript that is paid for from the state funds and is for the use on behalf of a litigant who has been declared indigent by the court.
13. **“Private transcript”** means a transcript, including but not limited to, a deposition transcript that is paid for by a private party.

Section Two. Salaries and Per Page Fees.

1. Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. monetary compensation or compensatory time off regular work hours. The Whitley County Employee Handbook shall govern these issues unless later modified by the supervising court.
2. The maximum per-page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$3.00. The court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts. Charge to copy transcript for an indigent shall be \$1.00 per page.
3. The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$3.00. Charge to copy transcript for a state indigent transcript would be \$1.00 per page.

4. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$3.25. The charge to copy transcript for a private transcript would be \$1.25.
5. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

Section Three. Private Practice.

1. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum designate the following:
 - a. The reasonable market rate for the use of equipment, work space and supplies shall be 25 cents per page.
 - b. The method by which records are to be kept for the use of equipment, work space and supplies shall be a written document between the court and the individual court reporter.
 - c. The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies shall be on an annual basis.
2. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all of such private practice work shall be conducted outside of regular working hours.

LR92-JR4-1 JURY RULES

1. The Courts of Whitley County, Indiana, adopt and confirm the use of the Indiana Jury Rules as ordered and published by the Indiana Supreme Court.

2. Deputy Whitley County Clerk Jeanne Howell is appointed as Jury Administrator for both courts.

3. The Whitley County Courts adopt a two tier notice and summons process for summoning jurors. The Jury Administrator shall send the jury qualification form and notice to prospective jurors at least six (6) weeks before jury service, and shall summon prospective jurors at least one week before service.

4. The jury pool for each court shall be compiled by the jury administrator annually.
5. The jury pool shall constitute names randomly selected from the voter registration lists for Whitley County, Indiana, and motor vehicle registrations of Whitley County residents. The jury administrator shall avoid duplication of names from the lists.
6. Each of the Whitley County Courts will have its own jury pool.

The Clerk of the Whitley Circuit and Superior Courts is ordered to spread this Local Rule of record in the Record of Judgments and Orders for each Court and sent two (2) copies of the Local Rule to the Clerk of the Indiana Supreme Court pursuant to Trial Rule 81.

**LR92-JR4-2 AMENDMENT TO LOCAL RULE 2002-1 OF THE COURT OF
WHITLEY COUNTY, INDIANA**

1. The Judges of the Circuit and Superior Courts of Whitley County, Indiana, now amend paragraph 2 of the Local Rule 2002-1 as follows:
2. Deputy Whitley County Clerk, Jennifer Baxter, is appointed as Jury Administrator for both Courts.

The Clerk of Whitley County shall affix this amendment to Local Rule 2002-1 and make the matter of record.

LR92-SC00-1 FORM OF GARNISHMENT

- A. All attorneys and collection agencies using the courts for collection matters and enforcement of judgments for payment of money shall use, when permitted by law, the form of garnishment order attached hereto.
- B. All attorneys and collection agencies using the courts for reasons described above shall submit to the courts' requested garnishment orders which have been accurately completed on the form of order attached hereto.
- C. The courts will not accept garnishment orders which do not comply with this local rule.
- D. This local rule shall become effective for all garnishment orders filed or requested on or after March 3, 1997.

STATE OF INDIANA

IN THE WHITLEY SUPERIOR COURT

COUNTY OF WHITLEY, SS:

CAUSE NO. 92D01-_____

Plaintiff

VS

Defendant *Social Security #*

FINAL ORDER IN GARNISHMENT

Garnishee Defendant (Hereinafter
called Employer)

Address

Plaintiff appears and makes proof of service of notice of hearing upon defendant,
_____, and upon Garnishee-Defendant (hereinafter called Employer),
_____.

THE COURT NOW FINDS AND ORDERS:

- 1) That this order will take effect after all prior orders in garnishment have been satisfied, and that only one order in garnishment will be carried out by the Employer at one time.
- 2) That Employer withhold from the weekly disposable earnings of defendant the lesser of:
 - (a) 25% of defendant's disposable earnings (i.e., earnings after subtracting those amounts required by law to be withheld); or
 - (b) The amount by which the defendant's disposable earnings for that week exceed thirty (30) times the current federal minimum hourly wage (prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable or the equivalent multiples thereof if the pay period is other than one week.
- 3) That withholding of said amounts shall be continued until the following are fully paid.
 - (a) Total Judgment (including principal, interest, attorney fees and costs, less payments previously made) \$

| | |
|--------------------------------------|----|
| (b) Costs since Judgment | \$ |
| (c) Interest since entry of Judgment | \$ |
| (d) ½ of Employer's Compensation | \$ |
| TOTAL | \$ |

- 4) The Employer is ordered to pay the Clerk of this Court the withheld amounts every thirty (30) days.
- 5) The Clerk of this Court shall have a copy of this order served on the Employer.

The Employer is awarded compensation pursuant to Ind. Code § 24-4.5-5-105 (Burns 1996) in the sum of \$_____ (being the greater of \$12.00 or 3% of the total amount required to be deducted by the garnishment order.) If the Employer chooses to collect the fee, it shall be allocated as follows: (a) One-half (½) of the fee shall be borne by the debtor employee, and that amount may be deducted by the employer directly from the debtor employee's disposable earnings; and (b) One-half (½) of the fee shall be borne by the creditor, and that amount may be retained by the employer from the amount otherwise due the creditor. The deductions made for collection of the fee do not increase the amount of the judgment debt for which the fee is collected for the purpose of calculating or collecting judgment interest. The fee may be collected only once for each garnishment order or series of orders arising out of the same judgment debt. The employer may collect the entire fee from one (1) or more of the initial deductions from the employee's disposable earnings or ratably over the number of pay periods during which deductions from the employee's disposable earnings are required.

DATED: _____

Judge, Whitley Superior Court